

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3701 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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BHARUCH JILLA UDYOG KAMDAR SANGH

Versus

DINESH MILLS LTD., ANKLESHWAR AND OTHERS

Appearance:

MR JIVANLAL G SHAH for Petitioner No. 1
MR MITUL K SHELAT for Respondent No. 1
MR NC THAKKAR, AGP for Respondent No. 2-3
RULE SERVED for Respondent No. 4

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 07/09/2001

ORAL JUDGEMENT

The petitioner, presenting itself as a Registered Trade Union has filed this Special Civil Application for the purpose of seeking writ by way of directing the second and third respondents herein to refer the dispute raised on 14th August, 1986 for adjudication before

appropriate Court established under the provisions of the Industrial Disputes Act, 1947.

2. It appears that for the year 1985-86, the petitioner-Union served a demand notice on Respondent No.1-Mill seeking payment of bonus at the rate of 20% of the total wage bill. As the demand was not accepted by the first respondent, the matter went before the Assistant Labour Commissioner who, as a Conciliator under the provisions of Section 12 of the Industrial Disputes Act made a failure report to the Labour Commissioner on 1st April, 1987.

3. Thereafter, there was a settlement made by Respondent No.1 with Respondent No.4-Union which had a larger membership and accordingly the first respondent-Mill paid bonus at the rate of 8.33% of the total wage bill plus 2.17% was granted as ex-gratia payment. There is no dispute between the parties that even the members of the petitioner-Union accepted the total amount paid at the rate of 10.5% on the basis of the aforesaid settlement, as the said settlement was arrived at in Reference No.35 of 1987 pending before the Industrial Tribunal and accordingly award was made on 16th February, 1987.

4. On behalf of Respondent No.1, affidavit has been filed wherein it is stated that in light of the settlement arrived at between the parties and the adjudication by the Industrial Tribunal and the award made thereupon, no dispute would survive.

5. In view of the facts stated hereinbefore, we find that so far as the petitioner is concerned, no grievance survives and it is not necessary to quash the order made by the Labour Commissioner on 16th June, 1987 whereby he declined to refer an industrial dispute as was sought by the petitioner.

The petition is accordingly rejected. Rule discharged with no order as to costs.

(D.A. Mehta, J)

'Bhavesh'